

May 27, 2005

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands* – WT Docket No. 03-66 -- **NOTICE OF EX PARTE PRESENTATION**

Dear Ms. Dortch:

I am writing to advise the Commission, pursuant to Section 1.1206(b)(2) of the Commission's Rules, that yesterday I met on behalf of the Wireless Communications Association International, Inc. ("WCA") with Henry Allen, Barrett Brick, Scott Delacourt, Brendan Murray, Uzoma Onyeije, Erik Salovaara, John Schauble, Gregory Vadas and Nancy Zaczek of the Wireless Telecommunications Bureau to discuss the issues pending before the Commission in connection with petitions for reconsideration of the *Report and Order* and in connection with the *Further Notice of Proposed Rulemaking* in the above-referenced matter.

During the course of the meeting, WCA reiterated its strong support for the use of Basic Trading Areas ("BTAs") as the geographic area for organizing transitions to the new bandplan. It was stressed that since the Commission's 1996 decision to auction Multipoint Distribution Service authorizations utilizing BTAs, the industry has structured around BTA boundaries more than any other geographic area. It was pointed out that utilizing any unit other than BTAs for transitions would cause proponents to transition regions that are larger than necessary to achieve interference-free service. WCA also reiterated that it has amended its prior agreement with Rand McNally Company to accommodate WCA's proposal.

The participants in the meeting also discussed the possibility of utilizing geographic units other than BTAs for auctioning 2.5 GHz band spectrum. WCA noted that it made little sense to auction cancelled Broadband Radio Service ("BRS") BTA authorizations using any other unit,

May 27, 2005

Page 2

and that the educational community would likely resist utilizing larger geographic units for the Educational Broadband Service ("EBS") white space auction in light of the local nature of most educational activities. However, WCA expressed ambivalence regarding the geographic areas to be used for any reauction of BRS spectrum returned to the Commission in exchange for bidding credits or assistance in digitizing and migrating legacy analog video services to the Middle Band Segment ("MBS").

WCA also repeated its strong opposition to proposals by certain members of the EBS community to effectively stay the geographic licensing rules until after transitions to the new bandplan have been completed. It was noted that after more than five months of experience under the new regulatory regime, no complaints of actual interference to EBS receive sites has been reported. WCA attributed this largely to the fact that the cellular facilities being deployed are sufficiently vulnerable to interference from high-power EBS video operations that licensees cannot practically deploy cellular services absent coordination with neighboring high-power video systems. WCA stressed that, should the Commission choose to apply desired-to-undesired signal ratio requirements to pre-transition operations and to post-transition operations in the MBS, it is essential that mechanisms be designed to permit operators and licensees to quickly and efficiently secure from EBS licensees the technical information necessary to provide the requisite protection. WCA pointed out that the marketplace requires commercial operators to rapidly deploy new base station and/or to modify existing ones to fill dead spots and expand service to meet consumer needs, and that the ability of operators to meet those needs will be jeopardized if the EBS interference protection rules cause undue delay.

The participants in the meeting also discussed the imposition of performance requirements on BRS and EBS licensees under the new regulatory regime. WCA emphasized its continuing support for the imposition of the traditional Part 27 "substantial service" requirement and safe harbors, as well as the new rural safe harbors. In addition, WCA stressed the need for additional safe harbors targeted at the unique circumstances presented by the 2.5 GHz band. One such safe harbor should recognize that, unlike other Part 27 services, operators in the BRS/EBS generally are cobbling together spectrum from multiple licensees to comprise a single system and at any given time some of that spectrum will likely be used as guardband or reserved to meet growing consumer demand. Another safe harbor should reflect that many licensees had deployed significant commercial operations in the band over the past license term, but that such operations have ceased as licensees prepare to transition to the new bandplan. Finally, WCA reiterated its view that a licensee's performance should be evaluated no earlier than five years after the completion of its transition to the new bandplan, a time frame that fairly accommodates the Commission's interest in promoting rapid deployment without effectively forcing licensees to deploy existing technologies that may not best serve the demands of the marketplace in all areas of the country.

Finally, WCA expressed its support for a self-transition process along the lines that it has suggested in its filings, stressing that such an approach will expedite the transition to the new

May 27, 2005

Page 3

bandplan and assure that no licensee is precluded from retaining its license because of the costs of transitioning an entire market.

Should you have any questions regarding this matter, please contact the undersigned.

Respectfully submitted,

/s/ Paul J. Sinderbrand

Paul J. Sinderbrand

Counsel to the Wireless Communications
Association International, Inc.